

IS JUSTICE DELAYED JUSTICE DENIED? EXAMINING THE TIMELINESS OF  
COMPLETING POLICE MISCONDUCT INVESTIGATIONS

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**Title**

Is Justice Delayed Justice Denied? Examining the Timeliness of  
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## **ABSTRACT**

This study aims to examine how patrol officer and complaint characteristics influence the timeliness of completing police misconduct investigations. Further, it analyzes how the timeliness of the investigation influences the disposition and discipline of complaint investigations while controlling for relevant police officer and complaint characteristics. Data were collected from a Midwestern municipal police agency for all complaints filed against patrol officers from 2006-2015. The analyses in this study demonstrate that the nature of the complaint and number of police officers present influences the length of the investigation. This study also finds that police officer and complaint characteristics are relevant predictors of the disposition and discipline outcomes of complaint investigations. Policy implications are discussed.

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I would also like to thank the faculty of the NDSU Criminal Justice Program. I will always be grateful for the knowledge and wisdom you have shared with me. I will pay it forward to others as I move along.

## **DEDICATION**

To my wife, Gina, thank you for your support and sacrifice. Without you, none of this would be possible. I bet you're glad I can start a real job now.

I love you.

To my daughter, Demi, I love you. Thank you for being happy, sweet, and well-behaved.

You deserve every chance and opportunity.

Be strong, be fearless. Anything is possible.

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## CHAPTER 1. INTRODUCTION

The core meaning of police accountability in a democracy is being answerable to the public (Walker & Archbold, 2014). Police are held accountable by the public through the services they provide, which include crime control, order maintenance, conflict resolution, problem solving, and provision of services (Kelling & Moore, 1989; Walker & Archbold, 2014). Confirming this idea, a statement that was found repeatedly in the internal affairs documents used as the main data source for this study stated that, “Public perception of any law enforcement agency is paramount to the success of that organization. The way a department conducts business is vital to the public’s perception of the agency and all of its members.” This quote embodies the mission of law enforcement agencies in the community/problem solving era of policing as expounded upon by Kelling and Moore (1989). Specifically, Kelling and Moore (1989) emphasize that this era of policing relies on an intimate relationship between police and citizens, which is accomplished through the services they provide.

Police accountability has changed markedly since the inception of the first police agencies in the United States. Because of the focus on large northern cities, most accounts of the development of police do not consider the development of police accountability in the South. Reichel (1988), in addition to Walker (1992), recognize slave patrols as a type of specialized police organization that had a law enforcement function and accountability to a centralized governmental authority. Because slave patrols shared these characteristics with modern agencies, they should be considered a precursor to modern police organizations and the starting point of accountability (Reichel, 1988; Walker, 1992).

In the early 1700s, every slave state had laws for the regulation of slavery (Reichel, 1988). These laws were enforced by militias in addition to separate slave patrol entities. Early slave patrols, such as the one created in the colony of Carolina in 1704, concerned itself with

catching runaway slaves and preventing uprisings (Reichel, 1988). These slave patrols were held accountable by district commissioners who appointed them. Further, slave patrols were expected to protect the colonial governments and property owners from slaves who were considered a dangerous class.

In the Northern United States, metropolitan departments started to develop and the Political Era of policing began. Police in the Political Era borrowed their structure from Robert Peel's London Metropolitan Police, who used the military model. Adopting military principles to maintain effective supervision meant that officers would wear uniforms, hold military-style ranks, and be commanded by superior officers in an authoritarian manner (Walker, 1980). In this era of policing, spanning from 1840 to 1900, holding police accountable for their actions was a difficult task. Police officers were held accountable to political leaders whom they depended on for a job (Kelling & Moore, 1989). Because policing was heavily influenced by politics, officers faced the consequence of losing their positions if political machines were not satisfied or re-elected.

Police in this era were also held accountable to the public for providing clean streets and distributing supplies to the poor. Holding the police accountable while on the beat was also a challenging task. Before the invention of the radio, police officers would check in with their supervisor using a call box (Kelling & Moore, 1989). This severely restricted a supervisor's knowledge of what their officers' conduct was like away from headquarters. Some critics of the Political Era of policing have pointed out that officers spent many hours of their shifts in saloons and barbershops drinking alcohol to lighten their workload (Walker, 1980). Because of this, it is not far-fetched to believe that some officers spent their time on duty under the influence of alcohol, without their superior's knowledge (Walker, 1980).

When accusations were made against the police alleging misconduct, there were usually few repercussions (Vollmer, 1933). Corruption and violence, in the form of the “third degree” was often used and not investigated as misconduct. Consequently, if a citizen had a complaint against an officer during this era, there was no official protocol for departments to follow. This ultimately resulted in supervisors siding with the officers and the continuance of misconduct.

Around 1850, police oversight boards began to develop to help hold law enforcement agencies accountable for their services (Wadman & Allison, 2004). As police brutality and abuse grew more frequent, city leaders began to feel pressure to hold their police officers accountable. This pressure, along with the help from influential figures, ushered in a new era of policing with new methods of accountability. With the help of August Vollmer, police agencies in the United States tried to become more professional. Vollmer’s accomplishments included implementing crime prevention strategies, scientific investigations of crime scenes, reorganizing the chain of command, and revolutionizing police training and education (Wadman & Allison 2004). By encouraging the notion that police work was more than just a job, Vollmer worked with leaders around the country to make the police more accountable through professionalism.

Because of Vollmer’s efforts, police accountability began to take different forms with the start of the Reform Era of policing beginning in 1900. Police in the Reform Era were held accountable to their police administrators through enforcing the law and controlling crime (Kelling & Moore, 1989). In addition, citizens began to become aware of police misconduct which resulted in a variety of ways to hold police accountable. One way included an increase in lawsuits filed against the police (Archbold et al. 2006; Kappeler, 2001; Walker & Archbold, 2014). Furthermore, a major method of police accountability in this era was established by Supreme Court cases which restricted police discretion to control officer behavior (Walker & Archbold, 2014). Three examples of these cases include *Mapp v. Ohio* (1961), *Tennessee v.*

*Garner* (1985), and *Miranda v. Arizona* (1966). *Mapp v. Ohio* (1961) held officers accountable by establishing the exclusionary rule. The exclusionary rule holds that if an officer violates a person's 4<sup>th</sup> and 5<sup>th</sup> Amendment constitutional rights to obtain evidence, it cannot be used against the person in court. In addition, *Tennessee v. Garner* (1985) determined that when a law enforcement officer is pursuing a fleeing suspect, he or she may not use deadly force to prevent escape unless the officer has probable cause to believe that the suspect poses a significant threat to the officer or others. Lastly, *Miranda v. Arizona* (1966) required that police officers inform suspects of their rights upon taking them into custody. Over time, these Supreme Court cases have been one source for enhancing officer decision making to protect the constitutional rights of civilians. Further, these cases have aided in the reform of police departments across the United States (Walker & Archbold, 2014).

In addition to holding police officers accountable through the courts, a new mechanism by which police behavior could be monitored was beginning to be developed: internal investigations of police misconduct. This idea was put forth by one of Vollmer's disciples, O.W. Wilson. In his book, *Police Administration* (1952), sometimes referred to as the "bible of police professionalism" (Walker, 2003), Wilson refined Vollmer's philosophies and developed department organizational structures which supported those philosophies. In Wilson's Second Edition of *Police Administration*, he recommends devoting resources to a division charged with the responsibility of recording, registering, supervising, and controlling the investigation of complaints against officers. The complaint procedure, as explained by Wilson (1963) protects the reputation of the department through complete and objective investigations. In total, O.W. Wilson dedicated two pages to the discussion of complaint investigations. Moreover, the Kerner Commission report conducted in 1968 found that formal complaint processes did not exist in many police agencies. Decades have passed since O.W. Wilson first introduced the idea of an

organizational structure that supports a complaint processes to professionalize the police. However, even in the early 1990s, just over half of the 100 largest police agencies in the United States had an official protocol for complaint investigations (Walker & Bumphus, 1992).

As the police made efforts to become more professional through the adoption of new organizational structures, such as internal review of misconduct, questions remained regarding the attributes necessary to become a profession. According to Hall (1968), education and entrance requirements, in addition to attitudinal characteristics are important aspects of a profession. Attitudinal attributes of a profession include the use of the professional organization as a major reference, belief in self-regulation, belief in service to the public, a sense of calling to the field, and autonomy (Hall, 1968). Research has shown that policing may not reach the professional standards set by Hall (1968). Bumgarner (2001) asserts that many of those attributes are not observed and the term “professional” as it relates to policing is a misnomer. Nonetheless, departments over time have become more equipped to investigate officer misconduct.

Currently, in the Community/Problem Solving Era, there are more police accountability mechanisms than ever before. One of the main accountability mechanisms includes investigations of complaints of police misconduct. Complaints alleging officer misconduct can take the form of internal and external complaints. Both citizens and officers can file complaints regarding any wrong they may have experienced. A citizen complaint process is a mechanism by which a police department can make itself accountable to the people it serves by hearing and investigating their complaints, and administering discipline to officers found guilty of misconduct. The right to file a complaint against the police is protected by the First Amendment to the Constitution. The amendment specifically prohibits Congress from abridging "the right of the people...to petition the Government for a redress of grievances" (US Constitution). If the

complainant believes that the officer was not operating within policy, it is the function of the investigation unit to determine the facts and decide the disposition of the complaint (Walker & Archbold, 2014).

Complaint procedures are adversarial in nature and contain several elements resembling criminal proceedings (Black, 1976; Walker & Kreisel, 1996). These elements include a presumption of innocence for the accused officer during an investigation to determine whether there is sufficient evidence to sustain the complaint. Lastly, following a sustained complaint, a disciplinary action is determined and carried out by internal affairs with a written notice to the complainant and accused officer.

It is also necessary for departments to have an open and accessible complaint process (Walker & Archbold, 2014). Internal Affairs is a critical entity in police departments that can impact the standards of investigating police misconduct. Openness, integrity, and accountability are characteristics of an ideal complaint process (Office of Community Oriented Policing Services, 2007; Walker & Archbold, 2014). However, these ideal characteristics are important to the extent that police departments implement them into their standards. One problem is that there is a lack of national standards regarding the investigation of internal and external complaints. Chapter 52 of the Commission on Accreditation for Law Enforcement Agencies (CALEA) requires that departments have a formal complaint process to become accredited. However, no details regarding the successful operation of a complaint process is made clear. For example, CALEA's 52.1.1 instruction states that a written directive requires all complaints against the agency or its employees be investigated, including anonymous complaints (Office of Community Oriented Policing Services, 2007). Still, one of the main shortcomings of these standards is that it provides no details pertaining to the protocols for complaint investigations, other than complaints should be investigated.

One characteristic of a properly functioning complaint process is the timeliness of investigating complaints of police misconduct. However, staffing and managing the complaint investigation process remains a problem for agencies (Walker & Archbold, 2014). Additionally, CALEA recommends that departments have a written directive that specifies a time limit for completing an internal affairs investigation, with provisions for extensions. Again, there is no guideline set as to what is an acceptable timeline for investigating complaints. No research exists on the level of investigative effort that should exist as a standard for resolving complaints. The purpose of this study is to examine how patrol officer and complaint characteristics affect the timeliness of investigations of complaints. Further, it will also analyze what factors influence the disposition and discipline while adding a new variable into the models: the length of the investigation. When investigating complaints, police departments have the responsibility to investigate complaints against their officers in a timely and thorough matter (Walker & Archbold, 2014).

For certain departments, this has not always been the case. From 2003 to 2006, the San Francisco Police Department (SFPD) took more than ten months to close 40% of sustained cases (San Francisco Office of Citizen Complaints, 2011). In addition, the SFPD returned 12% of those cases to the Office of Citizen Complaints stating that the SFPD did not have sufficient time to review the cases and consider discipline before the expiration of the one year statute of limitations. Neither the police chief or the police commission had an opportunity to determine whether the officer was guilty of misconduct, and officers who arguably should have been disciplined, counseled, or retrained were not. In addition to San Francisco, the Oakland monitor in 2004 found that there were delays at every stage of the complaint process (Oakland Police Department, 2004).



Many police departments have created formal timelines for the different stages of the complaint process. The Independent Police Auditor of San Jose established a 30-day limit to classify each complaint, 180 days to complete investigations regarding use of force, and a limit of one year to complete investigations of all other complaints. This came after it found that there were major delays in classifying complaints and completing complaints (IPA Report, 2003). One major drawback of establishing time limits to investigate police misconduct is that no repercussions exist if the time limit expires.

This study is important from a procedural justice perspective. The procedural justice perspective contends that the public's view of the police is shaped by the way police and other legal authorities interact with them (Sunshine & Tyler, 2003). Because of this, it is possible confidence is lost when citizens perceive that the police do not treat them with fair and neutral treatment. Research shows that when citizen's view police authority as procedurally just, they are more likely to cooperate with police and obey the law (Sunshine & Tyler, 2003). From a procedural justice perspective, a delayed investigation may be perceived as the department not taking complaints seriously from the complainant's perspective. This may lessen the confidence citizens have in the police for investigating their own officer's misconduct, making it less likely that misconduct is reported in the future.

For example, loss of confidence in the police is demonstrated in the literature on the reporting of sexual assault. According to The National Violence Against Women Survey (2006), only 20% of women reported their sexual assault victimization to the police. Notable reasons cited by victims of sexual assault not to report their assault are the fear of being perceived as blameworthy, not credible, or an overall lack of confidence in the police (Kerstetter, 1990; Schuller & Stewart, 2000). Conducting interviews with 114 victims of sexual assault, 53% of participants stated that they did not report their assault because they were not confident in the

police. In addition, other research suggests that victims of crime have less confidence in the police than non-victims (Maxson, Hennigan, & Sloane, 2003). Taking this perspective, it is important to study the timeliness of investigations of police misconduct from a procedural justice perspective.

Because the process of investigating citizen complaints is designed to hold the officer accountable for their wrongful conduct, any delay in investigating a complaint could fail to correct that officer's behavior (Walker & Archbold 2014). Research shows that persons are more concerned with the procedural features of law enforcement (National Research Council, 2004; Tyler, 2001). Timeliness of complaint investigations has not been studied academically and research has not examined what influences the length of an investigation nor how the length of an investigation may influence the outcomes of the complaint.

## **CHAPTER 2. LITERATURE REVIEW**

### **Theoretical Framework**

Maintaining trust with the community is one of the many goals for many modern police agencies. Throughout history, the police have endured numerous challenges to this trust. As an institution of social control, citizens entrust the police with authority over their behavior. Highly visible incidents of police misconduct have the potential to spark riots, public indictments of police practices, and public mistrust of the police (Skolnick & Fyfe, 1993). Isolated instances of misconduct also have the possible consequence of harming the image of the police profession.

One way that the police maintain a trusting image with the community is through procedural justice. Thibaut and Walker (1975) referred to procedural justice as a mechanism for making decisions about the allocation of outcomes. Their hypothesis was a person's willingness to accept outcomes was linked to whether they were fairly decided on. Thibaut and Walker (1975) demonstrated that people's assessments of the fairness of third-party decision-making procedures shaped their satisfaction with their outcomes. More recently, procedural justice scholars have moved from focusing on the decision-making function of procedures to interpersonal aspects of procedures (Sunshine & Tyler, 2003; Tyler & Blader, 2003; Tyler & Huo, 2002).

Procedural justice has become a popular concept in the scholarly literature on policing (Mazerolle, Bennett, Davis, Sargeant, & Manning, 2013; Sunshine & Tyler, 2003; Tyler & Huo, 2002). The primary mechanism for establishing police legitimacy is procedural justice. The procedural justice perspective argues that the legitimacy of the police is linked to public judgments about the fairness of the processes through which the police exercise authority (Sunshine & Tyler, 2003). Sunshine and Tyler (2003) specifically expressed that procedural justice is "about the fairness of the processes through which the police make decisions and

exercise authority” (p. 514). In short, if citizens perceive that the police treat them with dignity and respect while being fair and neutral, the legitimacy of the police is enhanced (Mazerolle, Antrobus, Bennett, & Tyler, 2013; Reisig & Lloyd, 2009; Sunshine & Tyler, 2003). Studying legitimacy in the form of official citizen complaints, Terrill and Paoline (2015) found that, from the citizen’s perspective, discourteous or overly coercive officers threatened the legitimacy of the police as an institution.

Sunshine and Tyler (2003) also examined the relationship between people's judgments about police legitimacy and their willingness to empower the police. Specifically, if the police are viewed as legitimate, they are given a wider range of discretion to perform their duties (Sunshine & Tyler, 2003). Ultimately, it was found that empowerment was predicted by perceptions of legitimacy (Sunshine & Tyler 2003). Although not studied directly, one of the duties of the police is to investigate allegations of police misconduct, and citizens empower this duty.

One goal of the complaint process through a procedural justice perspective is to ensure a fair investigation. A perceived lack of fairness from the complainant’s perspective is a major criticism of internal affairs (Walker & Archbold, 2014). For example, in 2008, Joseph DeAngelis found that only 26.5% of complainants felt that the investigation was based on fact. Moreover, only 32.5% of the officers subjected to the complaint investigation felt it was unbiased. From a procedural justice standpoint, legitimacy can be preserved by treating all officers equally and allow comprehensive investigations into any claims of misconduct (Office of Community Oriented Policing Services, 2007). When there are perceptions that the investigation is handled unfairly or unprofessionally, ramifications can be widespread and damaging to department morale and operations (IACP National Law Enforcement Policy Center, 1990). This is both true from the officer and citizen’s perspective. Departments must ensure that

investigations treat both the citizen and officer fairly to enhance procedural justice and preserve legitimacy (IACP National Law Enforcement Policy Center, 1990).

Complaint procedures also aim to provide satisfaction to individual complainants while enhancing the public perception of the police department. Studying complaints of police misconduct from a procedural justice perspective, Walker (1997) uncovered cynicism about the complaint process. Specifically, the focus groups emphasized the widespread belief that police departments cover up misconduct by their officers. An example includes one African-American male student stating that he believes that the police department will take care of its own. In addition, another student said they would not file a complaint after the scenario because there were no witnesses and it would be the citizen's word against the police officer's. Overall, only a few participants in Walker's (1997) study believed that a complaint would produce any worthwhile results in the end. When examining the goals that complainants would like to attain, Walker (1997) found that the most frequently mentioned goal among all participants was wanting to receive an apology. Further, some citizens wanted a face to face meeting with an officer to express themselves while others wanted the situation to be documented in case of another incident. Walker's (1997) study confirmed Sviridoff and McElroy's (1989) finding regarding the inconsistencies between complainant goals and official complaint procedures.

This research emphasizes the importance of identifying principles that make the complaint process more procedurally just. Examining the timeliness of the investigation is important to view through the lens of procedural justice and legitimacy. Perceived injustice in the disciplinary process has the potential for negative consequences. For example, using retrospective, longitudinal data from a large police department in the United States, Harris and Worden (2014) explored whether officers sanctioned more severely were less likely to be involved in future misconduct. Compared to non-sanctioned officers, officers who received

more severe sanctions were more likely to obtain an additional sustained complaint. These counterintuitive results were attributed to a perceived injustice during the disciplinary process, but, it is not apparent what type of injustice would warrant future misconduct. Taking a defiance theory perspective, officers who rate their sanctions as unfair may feel stigmatized and alienated from the department, ultimately leading to future deviance (Sherman, 1993).

The current study applies a procedural justice perspective to the process of investigating complaints of police misconduct. By using the length of investigation as a new variable, it allows a look into how the outcomes of an investigation can be influenced. Longer investigations have the potential to fail to hold the officer accountable for his or her actions. Holding a police officer accountable is sometimes difficult even when an officer is considered problematic. For an officer to be flagged by an early intervention system, they must reach a predetermined threshold for any number of significant events like a citizen complaint. However, this pre-determined threshold varies substantially between departments. Once an officer is flagged by an early intervention system, that officer is required to be monitored for a specified period of time (Walker & Archbold, 2014). The problem is many departments only monitor an officer for a short time before the period resets and the officer is given a “clean slate” (Walker & Archbold, 2014; Davis et al., 2002) This means that it is possible for officers to amass several problematic indicators per monitoring period. In addition, a behavior known as the “officer shuffle” suggests that officers often switch departments without any new disciplinary action once they face scrutiny for problem behaviors (Rabe-Hemp & Braithwaite, 2012; Goldman, 2003; Goldman & Puro, 1987).

From the complainant’s perspective, this can erode legitimacy. From the department’s perspective, longer investigations risk sending the message that misconduct is tolerated, or that it is not important. Further, the added stress of a longer investigation could also have adverse

effects on officer behavior. Some research has posited that work-related stress of police officers can lead to excessive aggression and the use of force (Gershon, Lin, & Li, 2002; Kop, Euwema, & Schaufeli, 1999; Manzoni & Eisner, 2006). The following sections will describe the challenges in using complaints as a data source and the ways past research has studied complaints of police misconduct.

### **Validity of Complaints of Police Misconduct**

Questions remain about the inherent meaning of complaints and whether they are an adequate data source when it comes to examining police misconduct. West (1988) described complaints against the police as an abused police statistic. He asserted that an increasing number of complaints “filed with an agency may not reflect a deterioration in standards of officer behavior” (p. 113). West (1988) hasn’t been the only scholar to point out potential problems with citizen complaints. For instance, other scholars have asked the question whether citizen complaints accurately reflect the extent of police misconduct due to problems of under and over-reporting (Lersch, 2002; Lersch & Mieczkowski, 1996).

Critics of citizen complaints cite issues of both underreporting and over reporting of allegations of police misconduct. Regarding under-reporting, citizens may choose not to report police misconduct for several reasons (Lersch, 2002; Walker & Archbold, 2014; Walker & Bumphus, 1992). Individuals may refuse to submit or withdraw a complaint because of a lack of confidence in the abilities of the police to monitor their officers or the complaint procedures are intimidating and/or complicated (Walker & Archbold, 2014). The Mollen Commission (1994) reported that police officers often used or threatened to use brutality to intimidate their victims to protect themselves against the risk of complaints. For example, in New York over a 5-year time span, it was revealed that over half of the complaint investigations were truncated. Specifically, complainants withdrew, were uncooperative, unavailable, and could not be identified in these

allegations of police misconduct (New York City Civilian Complaint Review Board, 2013).

Further evidence of under-reporting was found by Walker and Bumphus (1992), who reported that only one-third of the people who believed that they had been mistreated by police officers pursued the matter by filing an official complaint.

Under-reporting of complaints could also be exacerbated by the police subculture. Westley (1970) contended that a police subculture exists with a specific set of norms, meanings, values and behavior patterns unique to policing. One behavior is known as the “code of silence,” in which police officers protect their fellow officers in situations involving misconduct (Goldstein, 1975). This is a behavior within the culture of police departments that could create problems interpreting reporting and substantiation rates. The code of silence involves not reporting other officer’s misconduct by claiming to have never seen it occur, lying to investigators, and even colluding with other officers to cover up evidence (Westley, 1970). A report by the San Francisco Office of Citizen Complaints in 2001 revealed there were 99 incidents of officers failing to cooperate with investigators, resulting in only 7 officers receiving a written reprimand (San Francisco Office of Citizen Complaints, 2001). The report found that the San Francisco Police Department routinely obstructed and delayed the Office of Citizen Complaints (OCC) investigations by changing document release practices, failing to respond to the OCC’s request for documents, withholding documents, refusing to provide signatures, mug shots, and taped interviews of the complainant’s statements (San Francisco Office of Citizen Complaints, 2001). Compounding this problem, Reiss (1973) stated that “police chiefs are notoriously reluctant to disclose information that would allow us to assess the nature and volume of complaints against the police” (p. 33).

Using a method of multistage sampling, whereby 113 police departments with 925 police officers agreed to participate in an attitudinal survey regarding the abuse of authority, Weisburd



and colleagues (2001) discovered evidence of the code of silence. Although their survey showed that more than 80% of American police do not accept that the code of silence as an essential part of their ability to police, about a quarter of the sample reported that whistle-blowing is not worth it because of the ways their police officers would treat them. More than two thirds reported that police officers were likely to be given a “cold shoulder” by fellow officers if they reported incidents of misconduct. Further, a majority reported that it was not unusual for police officers in their departments to turn a “blind eye” to misconduct by other officers (Weisburd et al., 2001). The Mollen Commission (1994), in its study of corruption in the New York City Police Department, found that officers who reported allegations of corruption suffered the penalties for being labeled a rat. The majority of honest officers still protected the minority of corrupt officers through a code of silence few dared to break.

While some critics oppose the use of citizen complaints as a measure of police practices because of under-reporting of incidents (Reiss, 1968; Winick, 1987), over-reporting may also be an issue when studying citizen complaints. Because they are citizen complaints, it is the citizen’s view or perception that the officer acted illegally or improperly. There is the potential that the perception of a citizen is unlikely informed by rules or procedures transmitted by police departments for establishing uniform operating standards (Terrill & McCluskey, 2002). Being that substantiation rates of complaints typically fall between 0 and 25%, with a reported norm of 10% or less (Pate & Fridell, 1993), Adams (1995) has pointed to the low substantiation rate as evidence of over-reporting of unfounded acts of police misconduct. This means that about 90% of the allegations of misconduct were not determined to be acts of misconduct at all. However, a low substantiation rate may not be a result of over-reporting as much as it could be a result of the police department’s reluctance to cooperate in the complaint process (Walker & Archbold, 2014).

Complaint research has revealed that a relatively small proportion of officers are responsible for a large proportion of complaints (Christopher, 1991; Harris, 2009, 2011; Lersch & Mieczkowski, 1996, 2000; McCluskey & Terrill, 2005; Walker, 2001), but this has generally been linked to arrest activity and other measures of productivity (Hassell & Archbold, 2010; Lersch, 2002; Lersch and Mieczkowski, 1996). Lersch and Mieczkowski (1996), investigated the phenomenon of alleged rotten apples, or officers who were classified as repeat compared to non-repeat offenders. These researchers found that a small group of 37 officers (7%) accounted for over one-third of the total number of complaints filed over the three-year analysis. However, they were also more likely to be accused of violent and non-violent harassment that was a result of proactive contact. This finding contradicts the rotten apple theory by substituting in the good apple theory where citizen complaints of police misconduct are viewed as an indicator of productivity. A disproportionate number of the complaints filed against the repeat offenders resulted from a proactive contact because officers in this analysis were actively seeking out crime and criminals while on duty. This suggests that if an officer is not generating dissatisfaction among the public, then the officer must not be doing his or her job by producing proactive contact.

However, it is important to note that some practices of producing proactive contact with the public has come under scrutiny. For example, the integrity of Stop Question and Frisk Programs have been questioned in recent years. While it creates higher numbers of proactive stops, it has been rated as harassing individuals based on suspicion rather than probable cause (Gau & Brunson, 2010). Therefore it is important to be cautious when labeling proactive contact as good behavior rather than examining the quality of the stops.

In a follow-up study, Lersch (2002) sought to explore the relationship between the number of citizen complaints received and the officers' level of productivity. Productivity

measures utilized included the mean number of arrests (felonies, misdemeanors, and juvenile statuses), traffic citations, and field interview reports. The strongest relationships in this analysis were found between the total number of complaints and mean felony and misdemeanor arrests (Lersch, 2002). While these relationships were of interest because they were significant and positive, others warranted further attention because of a lack of a significant relationship. Field interview reports were a productivity measure that exhibited a weak positive relationship to citizen complaints (Lersch, 2002).

Studying the relationship between measures of productivity and complaints, Brandl and associates (2001) controlled for different police officer characteristics such as sex, race, education, age, and length of service. Productivity variables, including the number of arrests, officer assignment and patrol areas, and total arrests were used to predict the total number of excessive force complaints. They found that officers who made more arrests were also more likely to receive complaints of excessive force by citizens (Brandl et al., 2001). Officer assignment and patrol areas, total arrests showed no relationship with total number of excessive force complaints. Building off past research, Terrill and McCluskey (2002) examined the activities of officers with one or more complaints per year (complaint prone officers) versus officers with less than 0.21 complaints per year (non-problem officers). Problem officers who had higher complaint rates were more active in terms of proactively confronting suspects and attempting to gather information in field interrogations. This affirms that officers who are productive generate higher rates of complaints because they actively engage the public. More recent research has shown that average number of citations influences the frequency of formal complaints (Hassel & Archbold, 2010). The more citations an officer issues will result in an increase in complaints. One question that stems from more productive officers receiving

increased number of complaints is whether the complaints are valid ones. Future research should establish the credibility and validity of complaints from more productive officers.

Despite the adversarial nature of citizen complaints, they remain a good data source for scholars studying police misconduct. To defend the use of citizen complaints as an indicator of police practices, Lersch and Mieczkowski (2000) analyze a second measure of police behavior: internal allegations of misconduct. These scholars explore the idea that if it could be determined that there are similarities in the number and type of internal departmentally-initiated complaints and external citizen-initiated complaints, support would be provided for the use of allegations of misconduct as a data source. Results of the analysis suggested that there was convergence between the citizen complaints and the internal allegations of misconduct. Officers who had at least one citizen complaint were more likely to have at least one internal allegation of misconduct (Lersch & Mieczkowski, 2000). Specifically, of the 259 officers who received at least one citizen initiated allegation of misconduct, a statistically significant 33.6% had also received at least one internally initiated allegation, which was higher than the proportion of all officers who were named in at least one internally generated complaint (23.7%). Further, when compared to the whole department, citizen identified problem officers were nearly twice as likely to be named in at least one internal allegation of misconduct.

Consistent with Lersch and Mieczkowski (2000), Harris (2011) explored the relationship between internal and external complaints longitudinally. Collecting data from computerized records for all sworn officers who were employed by this agency over a fifteen-year period, it was demonstrated that internal and citizen complaints had a substantial degree of association within both high-rate groups. This indicated that both internal and external complaints are valid predictors of an underlying tendency for misconduct (Harris 2011). Generally, officers with higher rates of citizen complaints also exhibited higher rates of internal complaints, with the

reverse is also true (Harris, 2011). These studies highlight that, for the most part, citizens and departments identify the same officers as problematic.

Although not a perfect data source to identify problem officers (Walker & Archbold 2014), there are few other ways to pinpoint unruly officers. Complaints of police misconduct are data that are an important part of information management for police agencies and one part of a broader plan to hold the police accountable (Walker & Archbold, 2014). As a supervision mechanism, complaints offer supervisors a direct way of monitoring police officer conduct (Walker & Archbold 2014). Complaints are also one important part of an early intervention system (EIS), which allow police officers to be supervised based on several measures of police behavior, one measure being complaints. The rationale behind EISs is straightforward. By monitoring and responding to problematic officer behavior, such as receiving high rates of complaints, departments can reduce the number of incidents that erode police legitimacy. Because employee performance is continually assessed by supervisors (Walker, Milligan, & Berke, 2006), it allows organizations to intervene in addressing unsatisfactory performance.

A National Institute of Justice study conducted by Walker and associates (2001) found significant reductions in use of force and citizen complaints among officers identified by EISs in three agencies. On the other hand, using data collected from the 2003 and 2007 Law Enforcement Management and Administrative Statistics (LEMAS) surveys, Shjarback (2015) investigated patterns in rates of citizen complaints of use of force among 94 departments that implemented an EIS and found no reductions in complaint rates of use of force. Aside from the mixed findings regarding EI systems (Shjarback, 2015; Walker et al., 2001; Worden et al., 2013), methods of supervision stress the role that data collection and analysis can play in an agency to identify problem officers (Walker & Archbold, 2014).

Whether it is problems of over-reporting, under-reporting, or using officer productivity to measure citizen complaints, each perspective calls into question the inherent meaning of a complaint or what complaints represent. Whichever way complaints are examined, one thing remains constant. That is, police misconduct remains a serious problem in American society and complaints are one of few data sources to explore.

### **Research on Citizen Complaints**

Most of the academic literature on citizen complaints can be organized based off of studies about the characteristics of officers who have complaints filed against them (Brandl et al., 2001; Hassell & Archbold, 2010; Hickman, Piquero, & Greene, 2000; Lersch & Mieczkowski, 1996, 2000; Liederbach, Boyd, Taylor, & Kawucha, 2007; Pate & Fridell, 1993; Wagner, 1980) and the receipt and processing of complaints (Brandl, Stroshine, & Frank, 2001; Griswold, 1994; Hassell & Archbold, 2010; Hickman, 2006; Hickman et al., 2000; Lersch & Mieczkowski, 1996; Littlejohn, 1981; Pate & Fridell, 1993; Wagner, 1980; Worrall, 2002). For instance, some literature examines the effects of officer demographics on the likelihood of receiving complaints.

### **Officer Variables**

#### ***Officer Sex***

Two officer demographic variables have shown to be significant predictors of complaints. Researchers have been interested in whether citizen complaints against officers are correlated with officer gender; some pointing out that a female officer is less inclined to garner complaints than a male officer for similar behaviors (Bazley, Lersch, & Mieczkowski 2007; Bergeron, Archbold, & Hassell, 2008; Brandl et al., 2001 Hassell & Archbold, 2010; Lersch, 1998; Lersch & Mieczkowski, 1996; McElvain and Kposowa, 2004; National Center for Women and Policing, 2002; Pate and Fridell, 1993; Steffensmeier, 1979; Van Wormer, 1981; Wagner, 1980).

Examining a total of 640 citizen complaints against 827 officers between 1971 and 1973, Wagner (1980) questioned whether officer sex influenced the likelihood of a complaint being filed. Male officers accounted for 99.9% of the agency and accounted for all but one complaint of police misconduct. In the San Jose Police Department, the Independent Police Auditor received a total of 664 complaints of excessive force against officers between 1996 and 2001. Only 2.9% of these complaints named female officers, although women constituted 8.7% of their sworn personnel.

To obtain a national picture on police use of force using citizen complaints, Pate and Fridell (1993) selected a representative sample of 1,697 law enforcement agencies from the total population of 15,801 agencies in the United States. The surveys were mailed to the 1,697 agencies and asked for use-of-force data for the previous year. After a series of follow-ups, the researchers received 1,111 completed surveys (a 65.5% response rate). Among sheriffs', county, and city departments that completed the survey, male officers were overrepresented among those receiving complaints. However, in state agencies, male officers were not overrepresented among those receiving complaints. Using citizen allegations of misconduct filed with the internal affairs office of a large municipal police department in the Southeastern United States, Lersch (1998) explored gender differences in complaints of misconduct filed against police officers. Specifically, Lersch (1998) investigated if male officers were overrepresented in allegations of misconduct. She found that while women were less likely to be accused of misconduct, no significant difference was found in the type of complaint filed against male and female officers.

In a content analysis, The National Center for Women and Policing (2002) collected data on citizen complaints of excessive force, in addition to sustained allegations of police misconduct. The data indicated that male officers were two to three times more likely than their female counterparts to be named in a citizen complaint for excessive force. More recently, using

data from an urban police department in the southern U.S., Bazley, Lersch, and Mieczkowski (2007) found that while male officers received more complaints on the use of excessive force than female officers, female officers responded with a narrower range of force continuum than male officers, and were less likely to resort to lethal force than male officers.

Brandl, Stroshine, and Frank (2001) studied officer characteristics in the form of arrest activity, age, and gender, and possible correlations with those variables and citizen complaints. Collecting data from a large mid-western municipal police department with an internal affairs bureau, these researchers found that gender was correlated with receiving a complaint. Specifically, male officers were more likely to receive complaints than their female counterparts, and female officers were less likely to employ physical force against citizens when they made arrests than were male officers. Consequently, female officers in this study were less likely to receive citizen complaints related to the use of excessive force against citizens.

### ***Officer Years of Service***

Researchers have also been interested in the effect that years of service has on the frequency of receiving complaints. Early observations of police work noted that younger officers are often ‘gung ho’ in their job performance (Van Maanen, 1979). Seeking to prove themselves to the agency, these officers often took command over citizens with no hesitation to apply coercive authority (Hunt, 1985). Less experienced officers have also been identified as ‘hungry’ and willing to do more to detect crime and criminals (Friedrich, 1977; Worden, 1989). For these reasons, officers with less police experience are more likely to be named in complaints of police misconduct (Brandl et al., 2001; Lersch & Mieczkowski, 1996; Lersch & Mieczkowski, 2000; McElvain and Kposowa, 2004). Cohen and Chaiken (1972) found that younger officers were more likely to have complaints filed against them. The officers in Wagner’s (1980) study with a shorter length of service received most complaints. McElvain & Kposowa (2004)



investigated whether there was a relationship between police officer characteristics and internal affairs investigations for allegations of use of force. Data for this study were gathered from personnel files of officers employed by the Riverside County Sheriff's Department for the years 1996 through 2000. The strongest predictor of internal affair investigations for use of force in the analyses was departmental experience. The typical officer that was investigated for alleged uses of force was a young male with less than ten years of experience working in the Sheriff's Department, and had been investigated for prior allegations (McElvain & Kposowa, 2004).

More recently, Harris (2010) studied the careers of officers who received internal complaints filed by another employee in the agency. Specifically, it was shown that the typical active officer's complaint career began in year four, continued for five years before desisting in the middle of the ninth year of experience. A curvilinear relationship between length of service and receiving complaints was found by Terrill and Ingram (2016). Less experienced officers, for example, were significantly more likely to receive complaints, while more experienced officers were less likely to generate complaints.

Since previous research has found officer variables to influence the frequency at which officers have complaints filed against them, it is important to examine whether these same characteristics influence the length of investigations of police misconduct in addition to the outcomes of investigations. By including these variables in the analysis, it will provide a better understanding of the factors that affect the dependent variables in this study.

## **Complaint Variables**

### ***Frequency of Complaints***

Most studies on complaints of police misconduct focus on the frequency of complaints (Lersch, 1998, 2002; Hickman, 2006; Lersch and Mieczkowski, 1996, 2000; Pate & Fridell, Wagner, 1980). Pate and Fridell (1993) focused on complaints for use of force, and

collected data via 1,111 agencies. A total of 840 agencies provided data on citizen complaints about police use of force. It was reported that 15,608 complaints existed during 1991, with rates of complaint varying by size and type of agency.

The Bureau of Justice Statistics (BJS) has collected data on citizen complaints from police departments in multiple waves of their Law Enforcement Management and Administrative Statistics (LEMAS) survey program. The LEMAS data provide information on the volume and rate of complaints, as well as complaint dispositions. The 2002 LEMAS revealed that large state and local law enforcement agencies received more than 26,000 citizen complaints about officer use of force (Hickman, 2006). This total figure resulted in overall rates of 6.6 complaints per 100 full-time sworn officers; however, rates were higher among large municipal police departments, with 45 complaints per agency, and 9.5 complaints per 100 full-time sworn officers. Most force complaints (22,238 or 84% of all complaints) were received by large municipal police departments. On a per agency basis, rates ranged from 7 per agency among those with less than 250 fulltime sworn, to 214 per agency among those with 1,000 or more officers (Hickman 2006).

However, Hickman (2016) warns against the validity of LEMAS as a source of complaint data because it suffers from serious measurement flaws. Some of these flaws stem from law enforcement agencies that report to the LEMAS use different recording behaviors. These recording behaviors include combining citizen complaints with internal complaints, combining citizen complaints with officer-reported uses of force, and reporting total complaints investigated, rather than complaints received. Administrative factors, including the overall quality of agency records as well as procedures related to complaint processing, may vary across departments. In addition, the categories and definitions of complaint dispositions used in LEMAS may not be used by all agencies. Some agencies may record multiple dispositions, or

other unique outcomes. Only examining force complaints also limits the scope of analysis. Force complaints represent a subset of all force events, which means not all force events result in citizens filing formal complaints. Data from the 2002 Police-Public Contact Survey indicated that although 75% of citizens experiencing force thought the level of force used was excessive, about 10% filed a complaint with the agency employing the officer (Hickman, 2006). The current study avoids these issues by separating internal complaints from external complaints, separating the nature of complaints received, and examining a variety of types of complaints.

### *Nature of Complaints*

There is a wide variety of the nature of complaints that departments receive. Research has demonstrated that complaints can include verbal discourtesy (Dugan and Breda, 1991; Littlejohn, 1981), illegal arrests (Kerstetter, 1996), and excessive force (Pate & Fridell, 1993). The lack of consistency in classification of complaints, makes it difficult to directly compare the results from studies concerning the types of complaints filed. In a review of the Detroit Police Department, Littlejohn (1981), reported a rate of 24% for demeanor-related complaints while Griswold (1994) found that only 13.9% of the complaints filed against a metropolitan police department in Florida alleged acts of discourtesy or harassment. Recently, Terrill and Ingram (2016) discovered that improper force and discourtesy were two of the most frequent complaints in six of the eight departments under examination. More specifically, 42% of all citizen complaints across the eight agencies were for allegations of excessive force or discourtesy.

The most common externally generated citizen allegations in Lersch and Mieczkowski's (2000) study were related to officer performance. This category included inefficiency and carelessness, and accounted for 32.2% of the citizen allegations. Complaints concerning demeanor were the second most commonly named category, accounting for 29.6% of the citizen allegations, while complaints alleging the use of unnecessary force were the third most common

allegation, accounting for 22.1% of the citizen complaints. Turning their attention to internal allegations of misconduct, performance related complaints were also the most common category, with 31% of the internal allegations falling within this type. While demeanor and unnecessary force on the other hand were common citizen complaints, they were the least frequently cited categories of internal complaints. Over a three-year period of analysis, there was not one internal complaint in which an officer had been accused of the use of unnecessary force. Examining complaints of police misconduct in a sheriff's office, Lersch and Kunzman (2001) found a total of 356 administrative allegations were filed against 154 deputies. Regarding policy violations, a total of 51 were filed against 35 deputies and investigated by internal affairs.

Researchers have also been interested in what influences the nature and type of complaint that is being filed. For example, officers who are classified as repeat offenders were more likely to be accused of both violent and non-violent harassment of citizens (Lersch & Mieczkowski, 1996). Officers with fewer complaints, on the other hand, were more likely to be accused of dissatisfactory performance of duties (Lersch & Mieczkowski, 1996). Classifying complaints into demeanor-related, performance-related, and allegations of force, (Lersch 2002) found the mean number of felony and misdemeanor arrests to be significantly correlated with all the complaint types. In addition, higher numbers of traffic citations were found to be correlated with the number of demeanor and force complaints an officer received, however not with performance related allegations.

### ***Disposition of Complaints***

Once a complaint has been investigated, internal affairs must decide on a disposition. In Pate and Fridell's (1993) analysis, agencies were asked to indicate the disposition of each citizen complaint of excessive force. Agencies were asked whether the complaint was unfounded, if the officer was exonerated, if the complaint was "not sustained", or if it was sustained. Unfounded

complaints were complaints that were found not to be based on fact or that the reported incident did not occur, while being exonerated means that the incident occurred but the action taken by the officer was lawful and proper. A complaint that was not sustained means that there was insufficient evidence to prove or disprove the allegation against the officer, while a sustained complaint is one where there is sufficient evidence for disciplinary action. After the surveys were collected, 830 agencies provided information on the disposition of the complaints. Per their data, city police departments had among the highest percentages of sustained complaints (10.1%). The rate of unfounded complaints in city departments was 33.7% while the officer was exonerated 35.3% of the time. As city departments became larger, the data showed lower rates of complaints that were sustained, while the smaller departments reported greater percentages of complaints in which the officer was exonerated (Pate & Fridell, 1993).

Regarding the LEMAS data gathered by Hickman (2006), the most common disposition for force complaints received by municipal police departments was not sustained (37%). Twenty-five percent of force complaints in these agencies were unfounded, and 23% of the officers were exonerated, resulting in 8% of force complaints being sustained. In Terrill and Ingram's (2016) eight city examination, 11% of the complaints were sustained across cities. St. Petersburg sustained 29% of all complaints while Portland sustained 2% of all complaints. When examining the type of complaint, improper force complaints were sustained 2% across all agencies, while discourtesy complaints were sustained at a rate of 9%.

Research on complaints of police misconduct has attempted to find predictors of the disposition of complaints. In Hassell and Archbold's (2010) analysis, it was demonstrated that the type of complaint influenced the disposition of complaints. Complaints for police action such as physical complaints, allegations of police use of force, and nonphysical complaints were less likely to be sustained than complaints for work performance issues and departmental policy

violations. Complaints for use of force, harassment, abuse of authority and verbal threats are not sustained as often as complaints for failure to fulfill duties, failure to document evidence, or verbal discourtesy and improper action (Hassell & Archbold 2010). In addition, it was demonstrated that a complaint was more likely to be sustained if only one officer was present rather than if two or more officers were present (Hassell & Archbold, 2010). Regarding gender, Terrill and Ingram (2016) found that male officers were significantly less likely to receive sustained dispositions. Lastly, complaints filed against officers classified as repeat offenders were less likely to be sustained in Lersch and Mieczkowski's (1996) analysis. When examining complaints against non-repeat offenders, 12.6% were upheld by internal affairs, while 8.4% of the complaints filed against non-repeat offenders were sustained. In a more recent study, Headly et al. (2017) found that higher ranked police officers were more likely to receive an unfounded decision. In addition, the more misconduct allegations a police officer has increased the probability that the allegation was not sustained (Headly et al. 2017). In this study, police officers with a greater number of disciplinary actions were more apt to have their misconduct allegation sustained.

### ***Disciplinary Action of Complaints***

Once a complaint has been sustained, a police agency decides whether any disciplinary action will be imposed on the officer. Disciplinary action can range from a verbal consultation to termination of the officer's position within the department. Pate and Fridell's (1993) analysis yielded 228 out of 1,111 departments reporting information describing the type of discipline that was administered following the complaints that were sustained. In city departments, reprimands constituted 32.6% of discipline administered while suspensions accounted for 41.8%. Reassignments resulted in 0% of the discipline from sustained complaints while termination accounted for 13.6% of discipline in city departments. Few studies have sought to explore the

predictors of the type of discipline that officers face once a complaint has been sustained. Manis et al. (2010) remains one of the few studies to find a significant predictor of disciplinary action. That is, less experienced officers were more likely to receive disciplinary action following the formal investigative process (Manis et al. 2010).

### ***Characteristics of Complainants***

Albeit in a limited fashion, researchers have also been interested in the characteristics of complainants. Pate and Fridell's (1993) revealed that, in city departments, 72.8% of complaints were from males while 27.2% came from females. Compared to their baselines in the general population, a noticeable overrepresentation of males complaining of excessive force was evident. Among complaints that were sustained, 82.9% were male and 17.1% were female. One reason to expect males to file more complaints than females is to look at their chances of having contact with the police. Previous research has shown that males are more likely to be stopped, searched, have force used against them, and arrested than females (Contacts between Police and the Public, 2002). The limited amount of multivariate analyses examining differences in complainant's sex has failed to find any relationships (Lersch, 1998).

### **Situational Variables**

Situational variables have also been used in studies that have examined police officer behavior. Situational explanations of police behavior are grounded in a sociological perspective in social control and the impact of social structure on police behavior (Black, 1980; Worden, 1989). Egon Bittner, for example, stressed the importance of situational factors when he studied the police. Specifically, he stated that "the role of the police is best understood as a mechanism for the distribution of non-negotiable coercive force employed in accordance with the dictates of an intuitive grasp of situational emergencies (Bittner 1995; p.23)." Sociologists, for example, have tended to see the behavior of the individual as externally influenced, as a response to the

environment that the individual is a part of. Situational variables have been analyzed in terms of how they influence official police action while a smaller body of literature has examined how they influence citizen complaints.

The number of officers present at a citizen encounter has been hypothesized to affect police behavior. Uchida and associates (1988) explored the factors affecting officer injuries. They found that officer attributes were unrelated to injury, as were suspect gender, race, and type of weapon used by the officer; however, like Margarita (1980) and Wilson and Meyer (1990), it was discovered that officers were more likely to be injured when there were more than one officer present. When alone, an officer may be more cautious and less threatening than when accompanied by other officers (Wilson, 1963). For example, Friedrich (1980) analyzed data gathered in the observational study undertaken by Reiss (1968) for the President's Commission on Law Enforcement and the Administration of Justice. Observers recorded detailed information on encounters between police and citizens, as well as on the police themselves. Regarding multiple officers at the scene and the use of excessive force, two-man units were more likely to use force than one-man units (Friedrich, 1980). In addition, the analyses showed that the more officers there were at the scene, the more likely it is that force was used. In an archival study in San Diego, Boydston, Sherry, and Moelter (1977) found lone officers were more likely to take crime reports, but found lone officers more likely to make arrests. Lone officers also produced fewer citizen complaints in encounters involving resisting arrest than those encounters involving two or more officers. Worden's (1989) and Terrill and Mastrofski's (2002) research also revealed that multiple officers on scene increased the likelihood that the citizen would experience force. Examining force in the connection to arrests, Garner and associates (1995) found that arrestees were more likely to experience force when there was an increased police presence. Having an increased police presence may be a result of a dangerous situation in which



there needs to be more back-up for police officers. This may increase the likelihood of formal action taking place.

Exploring the disposition of the complaint investigation, Hassell and Archbold (2009) found that a complaint was more likely to be sustained if only one officer was present rather than if two or more officers were present. It is possible that police officers change their behavior when additional officers are present. Officers may feel like they need to prove something to their peers and end up acting in a more aggressive manner than what the situation calls for (National Research Council, 2004).

### **Timeliness of Investigations**

Completing complaint investigations in a timely manner remains a problem for some police agencies in the United States (Walker & Archbold, 2014). The *Negotiated Settlement Agreement, Second Semi-Annual Report* conducted by an independent monitoring team revealed that over an 11 month period a total of 261 complaints with 630 allegations of misconduct were reviewed by the Oakland Police Department. The monitor found systemic delays at nearly every step of the process, with few internal mechanisms designed to prevent such delays. Specifically, 59% of the complaints were still open at the time of the review and 49% had been completed. The investigations of those complaints that were completed took an average of seven months to complete while the average duration of those investigations that were still open was four months. The independent monitoring team was especially concerned with investigations of level 1 uses of force complaints, which are required to be completed within 75 calendar days of the incident. Of 15 Level 1 cases reviewed by the independent monitoring team, only one was completed within this timeframe.

The report also highlighted that, “the most striking overall finding is the failure of OPD’s structure as a whole to support the internal investigations process. For example, firm deadlines

within the investigative process are sparse, and the deadlines that are in place are routinely not met” (p.vii). Moreover, the Oakland Police department routinely failed to discipline officers despite sustained misconduct findings because the investigation took longer than one year to complete. Exacerbating the problem is the OPD’s failure to enforce deadlines and hold commanders accountable when investigations stop under their watch. Tracking the progress of investigations was also found as a deficiency by the independent monitor, in some cases files disappearing after the retirement of the internal affairs personnel.

Little is known about what factors influence the time it takes to investigate allegations of police misconduct. To date, no published research has looked at this question. Previous research has demonstrated that officers who are more productive receive more complaints (Lersch 2002; Lersch & Mieczkowski, 1996). It is important to investigate whether misconduct by more productive officers take longer to investigate because attention is repeatedly drawn to their behaviors. It is also plausible that repeat offenders, or officers with a previous complaint are investigated differently for the same reason. Officers with prior complaints may be perceived to be guilty because internal affairs are used to reviewing that particular officer’s behavior. Consequently, investigations may be sped up. However, without previous research, that speculation cannot be confirmed.

It is also possible that officer characteristics influence the time it takes to investigate allegations of misconduct. Research has demonstrated that officers with less experience are more likely to have citizen complaints filed against them and more likely to have complaints sustained (Brandl et al., 2001; Lersch & Mieczkowski, 1996; Lersch & Mieczkowski, 2000; McElvain and Kposowa, 2004). Because of these findings, it is important to investigate whether more time is devoted to investigating officers with less experience as opposed to officers with

more. It is also necessary to investigate the possible effect that officer gender could have on the duration of investigating complaints.

Complaint characteristics could also influence the amount of time devoted to investigating allegations. For example, more serious allegations, such as use of force could require more time to investigate because the investigation may rely on more evidence which would need to be gathered and analyzed. On the other hand, more serious allegations could result in the streamlining of resources, ultimately shortening the length of an investigation.

Situational factors also have the potential to influence the amount of time it takes to investigate allegations of police misconduct. Having more officers involved in the complaint or at the scene of the incident, if it is externally generated may impact the duration of the complaint. Having more officers involved in a complaint could mean that there are more witnesses to interview, which could take longer, or, speed up an investigation because there are more witnesses to corroborate one side of the encounter.

Not only is it necessary to investigate what influences the amount of time taken to investigate allegations of misconduct, it is also important to examine whether the duration of the investigation influences the outcomes of the complaint while holding all other variables constant. One outcome of the complaint investigation is the disposition, or whether the complaint is sustained or not sustained. Another outcome of the complaint is the type of discipline given to the officer. As was found in the Oakland Police Department, officers were routinely not disciplined even after sustained complaints because a large amount of time elapsed from the incident to the investigation. From a procedural justice standpoint, it is then necessary to analyze whether the time it takes to investigate allegations of police misconduct influences the disposition and discipline that officer receive. This study contributes to the existing body of

literature on complaints of police misconduct by introducing a new variable; timeliness of investigations. The following research questions were designed for this study:

1. Are there differences in the timeliness of the investigation based on the nature, disposition, and discipline of the complaint?
2. What factors influence the length (timeliness) of investigations of complaints against patrol officers?
3. How does the length (timeliness) of investigation of complaints against patrol officers affect the disposition of the investigation?
4. How does the length (timeliness) of investigation of complaints against patrol officers affect the discipline recommendation of the investigation?

### **CHAPTER 3. METHODS**

Most of the studies on complaints of police misconduct are quantitative in nature (Brandl, Stroshine, & Frank, 2001; Dugan & Breda, 1991; Harris, 2009; Hassell & Archbold, 2010; Hickman, 2006; Lersch & Mieczkowski, 1996, 2000; Liederbach, Boyd, Taylor, & Kawucha, 2007; Manis, Archbold, & Hassell, 2008; Terrill & McCluskey, 2002). The purpose of this study is to continue the quantitative dialogue on complaints of police misconduct from a procedural justice perspective. The persistence to study complaints of police misconduct from the procedural justice perspective has been alluded to in recent research (Terrill & Paoline, 2015). Since people's evaluations of institutions are tied to outcomes (Sunshine & Tyler, 2003), it is necessary to examine what influences those outcomes. This research follows suggestions made by previous studies by tapping into another dimension of procedural justice: the timeliness of the investigation.

#### **Research Site**

A Midwestern, municipal police agency in the USA that employs 168 sworn police employees was used as the research site for this study. Only complaints filed against patrol officers will be included in the data analysis for this paper. The data used in this study were collected from 144 sworn patrol officers. The department is located in a city with a population of 118,523 people (US Census, 2015). The city's economy has historically been dependent on agriculture, however, that has decreased substantially in recent decades. Now, the city has a growing economy based on manufacturing, technology, retail trade, higher education, and healthcare.

According to 2010 Census figures, racial composition of the city includes 90.2% White, 2.7% African American, and 7.1% other races (including American Indian, Asian, Hispanic/Latino, or some combination of races). The police department has 5 community

service officers, 12 support specialist staff, and 5 civilian staff. From 1999 to the present, this department has had three Chiefs of Police. The police population is predominantly male (87%) and White (97%), while the average length of service for officers named in the complaints is 8.06 years of service, with a range of 0 to 33 years of service.

### **Data**

All complaints filed against patrol officers from 2006-2015 were collected with the help of the Fargo Police Department's (FPD) Internal Affairs division. The data set allows for an examination of a wide range of variables. These variables include details regarding the nature, disposition, and discipline of all complaints filed against patrol officers in this police department. Each complaint also identified how many officers were on the scene when incidents took place that resulted in complaints of police misconduct, and if any formal action took place leading up to the complaint being filed.

With the help of the FDP's crime analyst, data were collected for two measures of productivity: total number of arrests and total number of citations written from 2006-2015. The total numbers of the productivity measures were divided by 10 (ten years of data) to produce an average number of arrests and citations (Hassell & Archbold, 2010). Lastly, with the approval from IRB, demographic information for all sworn patrol officers was collected from the Human Resources Division within the city of Fargo. Information collected for all patrol officers includes officer sex and years of service. Officer race was not collected as there were mostly White patrol officers (98%). Information regarding education was also not collected because prospective applicants must have completed the equivalent of a two-year education at an accredited college or university, have an associate's degree, or 60 semester credits. The result of this requirement yielded little variation, therefore, education is not included in the analysis.

## **Variables**

### **Dependent Variables**

There are three dependent variables used in the analyses of this study: 1) the timeliness of the investigation; 2) the outcome/disposition of complaints filed against patrol officers; 3) type of discipline that was handed out to patrol officers named in the complaints. The length, or timeliness, of the investigation was operationalized as a continuous variable. Specifically, it was measured by the number of days from when the complaint was assigned to an investigator to the date that the investigator noted that the investigation was finished. Currently, no research has operationalized timeliness of the investigation, but police departments and police auditors usually refer to the number of days as a measure of length (Walker & Archbold, 2014). The mean length of time for an investigation to be completed was 24.69 days.

Using similar measures to Hassell and Archbold (2010), the disposition of complaints was operationalized as a dichotomous variable with complaints that are not sustained coded as zero (n=54) and complaints that are sustained coded as one (n=212). When the investigation revealed sufficient evidence to support the allegations made in the complaint, it is sustained. Complaints that were not sustained include cases where the investigation failed to disclose sufficient evidence to support the allegation. It may also have been the case that the acts providing the basis for the complaint occurred, but were justified, lawful, or proper. Further, when the investigation proved that the allegation was false or the basis for the complaint was fabricated, a complaint was not sustained.

The third dependent variable is the type of discipline that the officers received. The type of discipline was also coded as a dichotomous variable with minor discipline coded as zero and serious discipline coded as one. Minor disciplinary action included verbal consultation (n=16) or letter of consultation (n=106) while serious disciplinary action included a letter of reprimand

(n=61), suspension (n=18), employee resignation (n=3) or termination (n=10). These are regarded as serious because it becomes a part of an officer's permanent file (Hassell & Archbold 2010). The most frequent disciplinary consequence handed out by this agency was a letter of consultation.

Table 1

*Descriptive Statistics for Officer Variables*

Variable	N	Mean	SD	Range
<i>Officer Characteristics</i>				
Sex		.23	.42	0-1
0=Male	207			
1=Female	62			
Length of Service (in years)		8.06	7.39	0-33
Number of Prior Allegations		1.02	1.29	0-6
Average Citations		214.62	214.27	0-1642.6
Average Arrests		154.21	108.42	0-747.6

**Independent Variables**

Two police officer characteristic variables are used in the analyses. One variable included the sex of the officer with zero coded as male and one coded as female. The level of experience was measured in years from the start date to when the complaint was filed against the officer. Research has consistently demonstrated that males (Hassell & Archbold, 2010; Lersch, 1998; Lersch & Mieczkowski, 1996; Lersch and Mieczkowski, 2007; McElvain & Kposowa, 2004; National Center for Women and Policing, 2002; Pate and Fridell, 1993) and officers with less experience are more likely to have complaints lodged against them (Brandl et al., 2001; Lersch & Mieczkowski, 1996, 2000; McElvain & Kposowa, 2004).



Table 2

*Descriptive Statistics for Complaint Variables*

Variable	N	Mean	SD	Range
Complainant's Sex		.13	.33	0-1
0=Male	235			
1=Female	34			
Number of Investigations Per Year		29.80	8.53	12-44
Length of Investigation (Days)		24.62	15.73	2-77
Number of Police Officers		.30	.46	0-1
0=1 Officer	187			
1=Two or more officers	82			
Nature of Complaints				
0=Police Practice	49			
1=Work Performance	135			
2=Department Policy	89			
Disposition		.80	.40	0-1
0=Not Sustained	54			
1=Sustained	212			
Discipline		.42	.49	0-1
0=Minor Discipline	122			
1=Severe Discipline	92			

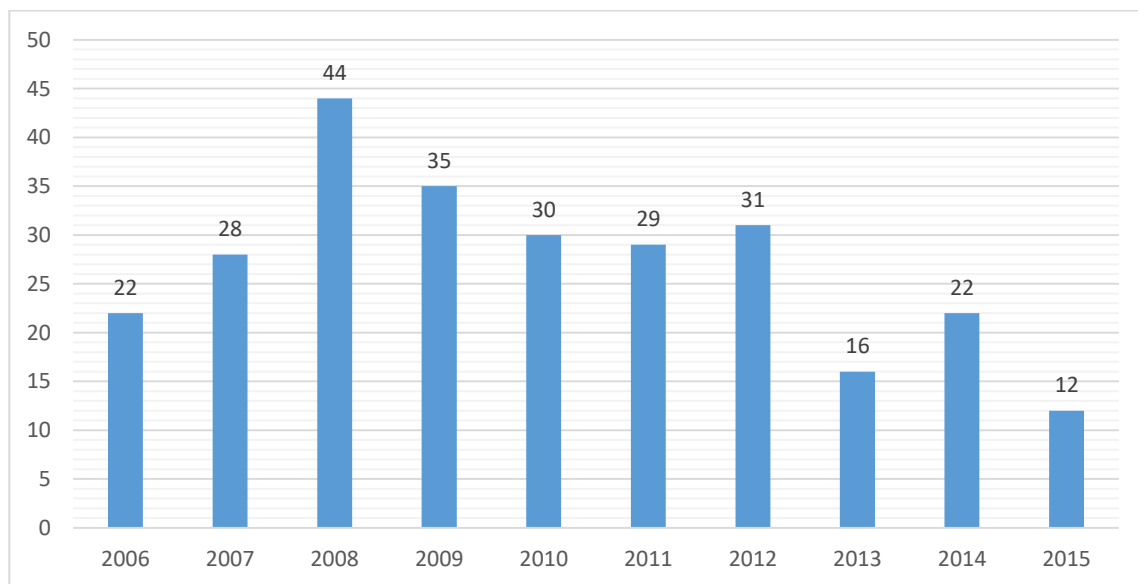
The nature of complaint was coded into three categories. Police practices (n=49) make up the first category and includes physical complaints and nonphysical complaints. Physical complaints include, for example, allegations of police use of force while nonphysical complaints could include harassment, abuse of authority, or verbal threats (Hassell & Archbold 2010). The second category is work performance issues (n=133). This includes behaviors such as dereliction of duties such as not completing reports in a timely manner (Hassell & Archbold 2010). The last type of complaint includes departmental policy violations (n=87), which includes behaviors such as verbal discourtesy to citizens or improper formal action (Hassell &

Archbold 2010). Two dummy variables are created in order to use the nature of the complaint as separate predictor variables. For both variables, complaints for departmental policy violations and work performance issues are compared to improper police action complaints. The variable will be coded 0 for police action complaints and 1 for department policy. The second will be coded 0 for police action and 1 for work performance. Research indicates that complaints for departmental policy violations and work performance issues are more likely to be sustained than complaints for improper police action (Hassell & Archbold, 2010).

Research has regularly demonstrated that officers who are more productive also have more citizen complaints (Brandl et al., 2001; Lersch, 2002; Terrill & McCluskey, 2002). Therefore, two productivity measures are also used as independent variables in this study. These measures include the average number of arrests and average number of citations over the 10-year study period. During the period studied (ten years), officers averaged 154.2 arrests and 214.6 citations per year.

One situational variable was used in the analysis. Having multiple officers at the scene of an encounter has been shown to alter police behavior (Terrill & Mastrofski, 2002). Previous research has also established that a complaint is more likely to be sustained if only one officer is present rather than if two or more officers were present (Hassell & Archbold, 2010). Having multiple officers present during the interaction could provide justification for the other actions taken by the officer (Hassell & Archbold, 2010). Further, an officer may be more likely to deviate from policy when not accompanied by other officers, increasing the chances of a sustained disposition (Hassell & Archbold, 2010). The number of police officers on the scene of encounters that resulted in complaints was operationalized as a dichotomous variable with zero coded as one officer on scene (n=187) and one coded as two or more officers on scene (n=82).

It is also important to include whether the police officers named in the complaints had previous complaints filed against them, since research tends to show a small number of officers tend to account for the most complaints (Christopher, 1991; Harris, 2009, 2011; Lersch & Mieczkowski, 1996, 2000; McCluskey & Terrill, 2005; Walker, 2001). Goldstein (1975) labeled this group as problem officers. Past research has found that history of prior use of force allegations is a significant predictor of subsequent investigations for using greater levels of force (McElvain & Kposowa, 2004). This variable was recorded as the number of misconduct allegations made against the officer (Headley et al. 2017). The number of investigations was also recorded for each year (2006-2015). Having more investigations in progress could influence the timeliness of the investigation as well as the disposition and discipline. The average number of investigations of allegations of police misconduct was 29.8.



*Figure 1.* Number of Complaint Investigations from 2006-2015

## **Analytic Techniques**

Using SPSS version 24, the quantitative data analyses consisted of univariate, bivariate, and multivariate analyses. To show the relevant complaint and officer characteristics, descriptive statistics are provided. This was done by calculating frequencies and percentages for each variable. To determine if any of the independent and dependent variables are significantly related, bivariate correlations were calculated. Here, multicollinearity diagnostics were conducted to ensure no variables are highly correlated. Multicollinearity is a problem that occurs when there is a high correlation of at least one independent variable with a combination of the other independent variables. The resulting problem is that it becomes impossible to obtain unique estimates of the regression coefficients (Field, 2009). Multicollinearity was tested using tolerance statistics, indicating whether there is a problem. A serious problem exists if value is below 0.1 (Field 2009). On the other hand, Menard (1995) suggests that values below 0.2 are cause for concern. In addition to tolerance scores, variance inflation factor (VIF) collinearity statistics were also be reported. Walker and Maddan (2005) report that while a VIF of 4 or less indicates no problem with multicollinearity, a VIF of 5 is acceptable. To more closely inspect the bivariate correlations, a one-way ANOVA, in addition to T-tests are conducted to examine if there are differences in the timeliness of the investigation based on the nature, disposition, and discipline of the complaint.

After the univariate and bivariate analyses were completed, the quantitative analysis was completed using multivariate statistics. Different analytic techniques were performed to examine the influence of officer characteristics, productivity, situational context, and complaint characteristics on the dependent variables. Ordinary Least Squares (OLS) regression was used for the analysis predicting the length of the investigation. An implicit assumption in OLS regression is that the dependent variable is continuous (Walker and Maddan, 2005). Binary

logistic regression was used to determine the effect of the independent variables on the disposition of formal complaints and discipline after the investigations. This resulted in predicted probabilities between zero and one. The Hosmer-Lemeshow goodness of fit test was examined to determine if the models are correctly specified (Field, 2009). If the test statistic is found to be greater than 0.05, it will suggest a well-fitting model and that the model's estimates fit the data at an acceptable level. IRB approval for this study was granted April 13<sup>th</sup>, 2017 in accordance with federal regulations under exempt category #4 (Protocol #HS17223).

## **CHAPTER 4. RESULTS**

### **Descriptive Statistics**

The quantitative analysis consisted of univariate, bivariate and multivariate analyses. The characteristics of police officers are presented in Table 1. Regarding the demographic characteristics of officers with allegations of misconduct, 77 percent were male. The years of experience among officers with complaints ranged from 0 to 33 years, with an average of 8.06 years. Turning to their productivity measures, officers named in complaints averaged 214.62 citations and 154.21 arrests per year. Lastly, 59 percent of officers with allegations of police misconduct had a prior complaint from 2006 to 2015.

When examining the complaint-level characteristics (see Table 2), most complainants were male (87%). The yearly number of investigations into allegations of police misconduct ranged from 12 to 44 with an average of 29.8 investigations. Investigations ranged from lasting 2 to 75 days while lasting an average of 24.69 days. Regarding the number of officers present at the scene in which an allegation was made, 69.5 percent had one officer present. The majority of the allegations of misconduct were for work performance issues (49.4 percent), followed by departmental policy violations (31.9 percent), and police practice issues (17.4 percent). Regarding the disposition and discipline of the investigation, 80 percent of complaints were sustained, while 57 percent of the discipline resulting from complaints was minor.

Table 3

*Bivariate Correlations*

Variable	1	2	3	4	5	6	7	8	9	10	11	12	13	14
1. Officer Sex	1													
2. Years of Experience	-.059	1												
3. Average Citations	-.160*	.153*	1											
4. Average Arrests	-.165**	.081	.865**	1										
5. Prior Complaint	.032	.099	.109	.183**	1									
6. Complainant Sex	.084	-.030	-.104	-.068	-.119	1								
7. Yearly Investigations	.071	-.101	-.108	.013	-.102	-.028	1							
8. Length of Investigation	.008	.002	-.013	.020	-.084	.106	.033	1						
9. Number of Police Officers	-.036	.002	-.066	-.038	-.112**	.210**	.094	.352**	1					
10. Work Performance Complaint	.090	-.102	-.080	-.056	-.023	-.178**	.054	-.215**	-.224**	1				
11. Department Policy Complaint	-.016	.119	.056	.003	-.061	.075	-.008	.059	.014	-.683**	1			
12. Police Practices Complaint	-.098	-.011	.035	.068	.104	.139*	-.060	.207**	.273**	-.470**	-.324**	1		
13. Disposition	-.014	-.061	-.080	-.044	-.010	-.244**	-.049	-.209**	-.321**	.116	.041	-.201**	1	
14. Discipline	.011	-.005	.010	.009	.062	.045	-.101	.333**	.155*	-.008	-.091	.139*	-.059	1

P&lt;.05\*

P&lt;.01\*

### **Bivariate Analysis**

The correlation matrix revealed a number of significant relationships between variables (see Table 3). Focusing on the dependent variables of the study, five variables were significantly associated with the length of the investigation. First, longer investigations were correlated with complaints that are not sustained. In addition, complaints for police practices and work performance were significantly shorter while those involving two or more officers are longer. Lastly, longer investigations were associated with more serious discipline.

Three variables were significantly correlated with the disposition of the investigation. The negative correlation between complainant's sex and the disposition indicates that female complainants were less likely to have complaints sustained. In addition, allegations involving two or more officers and police practices complaints exhibited negative correlations with the disposition. This indicates that complaints with multiple officers and police practice complaints were less likely to be sustained. Regarding the discipline handed out after each investigation, longer investigations were more likely to yield serious discipline. Moreover, both the number of police officers at the interaction which resulted in the complaint and police practice complaints were positively correlated with discipline.

The first research question asked whether there are differences in the timeliness of the investigation based on the nature, disposition, and discipline of the complaint. To address this question and more closely inspect the correlational relationships with the timeliness of the investigation, a one-way ANOVA and T-tests were conducted. A one-way ANOVA test was conducted to investigate the difference in the length of investigation between the different types of complaints. The complaint categories are police practices, work performance, and



departmental policy violations. Results from this test revealed a significant effect of the nature of the complaint on length of the investigation,  $F(2, 237)=5.8$ ,  $p=.003$  (See Table 4).

Table 4

*ANOVA for the Regression Equation, Nature of the Complaint on Length*

	Sum of Squares	df	Mean Square	F
Between Groups	2787.96	2	1393.98	5.83**
Within Groups	56668.78	237	239.11	
Total	59456.73	239		

\*\* $p < 0.01$

Post-Hoc comparisons using the Tukey HSD test indicated that the mean score for police practices complaints ( $M= 30.90$ ,  $SD=2.51$ ) was significantly different than the mean score for work performance complaints ( $M=21.72$ ,  $SD=1.32$ ) (Table 5). Taken together, these results suggest that the nature of the complaint does influence the length of investigations. Specifically, results suggest that when internal affairs is investigating police misconduct, more time is spent investigating issues related to physical complaints of police use of force and nonphysical complaints such as verbal threats than issues related to work performance.

Table 5

*Tukey HSD Comparison for Length of Investigation*

(I) Nature	(J) Nature	Mean Diff (I-J)	Std. Error	95% Confidence Interval	
				Lower Bound	Upper Bound
Police Practices	Work Performance	9.18*	2.77	2.66	15.71
	Departmental Violations	5.12	2.97	-1.90	12.13
Work Performance	Police Practices	-9.18*	2.77	-15.71	-2.66
	Departmental Violations	-4.07	2.26	-9.4	1.26
Departmental Violations	Police Practices	-5.12	2.97	-12.13	1.90
	Work Performance	4.07	2.26	-1.26	9.40

\*  $p < 0.05$ 

Independent samples t-tests were also used to determine if there is a difference in the length of the investigation based on the disposition of the complaint investigation. (see Table 6). On average, complaint investigations that were not sustained had a higher mean score for the length of the investigation ( $M = 31.30$ ,  $SE = 2.08$ ), compared to complaints that were sustained ( $M = 22.90$ ,  $SE = 1.14$ ). The difference in mean scores was statistically significant ( $t(235) = 3.27$ ,  $p = .001$ ).

Table 6

*Comparing Mean Length of Time for Investigation Disposition*

	Not Sustained			Sustained		
	N	Mean	(S.D.)	N	Mean	(S.D.)
Length*	44	31.30	(13.77)	193	22.87	(15.77)

\*P&lt;.05

Regarding discipline of the investigation, complaint investigations yielding serious discipline had a higher mean score for the length of the investigation (M= 29.33, SE=1.93) compared to complaints that received minor discipline (M=18.63, SE=1.22) (Table 7). The difference in mean scores was statistically significant ( $t(141.95) = -4.69, p=.000$ ).

Table 7

*Comparing Mean Length of Time for Discipline of Investigation*

	Minor Discipline			Serious Discipline		
	N	Mean	(S.D.)	N	Mean	(S.D.)
Length*	113	18.63	(12.94)	82	29.33	(17.49)

\*P&lt;.05

Before the multivariate analysis was initiated, multicollinearity diagnostics were examined to check for tolerance scores below 0.2 (Menard, 1995). Average yearly citations and arrests had tolerance values of .226 and .229 respectively. Aside from this, collinearity statistics did not reveal any issues as all tolerance scores were found in a range between .226 and .945. In addition, all variance inflation factors were below 5, further suggesting there are no multicollinearity issues.

### Multivariate Analysis

The second research question asked what factors influence the length (timeliness) of investigations of complaints against patrol officers? To examine the impact of each police officer and complaint variable on the timeliness of the investigation, an OLS regression analysis was performed (See Table 8). The results of the OLS regression indicated the predictors

explained 17.6% of the variance in the length of the investigation ( $R^2=.176$ ,  $F(10, 212)=4.65$ ,  $p<.001$ ). Results also showed that complaints involving two or more officers were a statistically significant predictor of length, and it indicated that those allegations increased the amount of time taken to investigate officer misconduct ( $p<.001$ ). This result makes intuitive sense, as more time would be needed to interview additional officers involved in the interaction which led to the complaint. Additionally, complaints involving work performance issues lessened the time taken to complete the investigation ( $p<.05$ ). This confirms findings from the one-way ANOVA, which found a difference in length of the investigation based on the nature of the complaint.

Table 8

*Ordinary Least Squares Regression Analyses of Length of Investigating Officer Misconduct*

Variable	B	SE B	Beta	t	p
<b>Police Characteristics</b>					
Sex	-.814	2.304	-.023	-.353	.724
Years of Experience	-.002	.128	-.001	-.016	.987
Average Citations	-.010	.009	-.148	-1.089	.277
Average Arrests	.021	.018	.154	1.139	.256
Number of Prior Complaints	-.919	.776	-.078	-1.184	.238
<b>Complaint Characteristics</b>					
Complainant Sex	1.752	2.970	.039	.590	.556
Number of Investigations Per Year	-.129	.116	-.074	-1.112	.267
Number of Police Officers Involved	10.324	2.110	.322	4.892	.000***
Nature (Department Policy)	-2.365	2.833	-.074	-.835	.405
Nature (Work Performance)	-5.775	2.697	-.195	2.141	.033*
$R^2 .176$					

\* $p \leq .05$  \*\*\* $p \leq .001$

Binary logistic regression was conducted to determine which factors predicted the disposition and discipline of complaint investigations. Separate logistic regression models were conducted for each dependent variable. Prior to interpreting the data, the independent variables were entered into each model and the regression model analytics were examined to ensure the model was a good fit for the data. First, the model predicting the disposition of the investigation will be reviewed (Table 9). The test statistic of the Hosmer and Lemeshow test was not significant, indicating the model is appropriate for the data. Also, the model chi-square was statistically significant, which confirmed the model was predictive of the disposition.

The third research question asked how the length (timeliness) of investigation of complaints against patrol officers affect the disposition of the investigation? Only one police officer characteristic was predictive of the disposition. As the average yearly citations an officer had increased, so did the likelihood that complaints would not be sustained ( $p=.024$ ). Results also indicate that complainants who are female were less likely to have their complaints sustained ( $p=.027$ ). The model indicated that interactions with more than one officer which resulted in a complaint were less likely to be sustained compared to interactions involving only one officer ( $p=.007$ ). In addition, complaints alleging violations of departmental policy were more likely to be sustained compared to police practice complaints ( $p=.023$ ).

At the  $p<.10$  significance level, longer investigations decreased the likelihood that a complaint would be sustained ( $p=.065$ ). In addition, complaints for work practice issues were also more likely to be sustained than police practice complaints ( $p=.057$ ). This model explained 27.7% of the variance in the disposition officers receive.

Table 9

*Logistic Regression Model Estimating Effects of Officer and Complaint Characteristics on the Disposition of the Investigation*

Variable	B	SE	p	Exp ( <i>B</i> )
<b>Police Characteristics</b>				
Sex	.012	.508	.980	1.013
Years of Experience	.007	.029	.804	1.007
Average Citations	-.005	.002	.024*	.995
Average Arrests	.006	.004	.150	1.006
Number of Prior Complaints	-.093	.165	.571	.911
<b>Complaint Characteristics</b>				
Complainant Sex	-1.236	.559	.027*	.290
Length	-.024	.013	.065†	.976
Yearly Investigations	-.029	.026	.261	.971
Number of Police Officers Involved	-1.133	.421	.007**	.322
Nature (Department Policy)	1.264	.554	.023*	3.54
Nature (Work Performance)	.941	.493	.056†	2.564
Constant	3.022			
Model $\chi^2$		$\chi^2$ (8, 222) = 40.48, p = .000		
Hosmer and Lemeshow Test		$\chi^2$ (11, 222) = 11.09, p = .197		
Nagelkerke R <sup>2</sup> = .277				

† $p \leq .10$

\* $p \leq .05$

\*\* $p \leq .01$

The fourth research question asked how the length (timeliness) of investigation of complaints against patrol officers affect the discipline recommendation of the investigation. Accordingly, the second binary logistic regression model was conducted to determine which

factors predicted the type of discipline resulting from the complaint investigation (See Table 10). The test statistic of the Hosmer and Lemeshow was not significant, indicating the model is appropriate for the data. Also, the model chi-square was statistically significant, which confirmed the model was predictive of a change in discipline. Only the length of the investigation was found to be a statistically significant predictor ( $p < .001$ ), and it indicated that longer investigations were more likely to yield serious discipline.

The results of this study show that while longer investigations are less likely to result in a sustained complaint, they are more likely to result in serious discipline. At first glance, these results do not seem to complement each other. It is possible that longer investigations are more likely to be for serious allegations, such as use of force or verbal threats. Since police practice issues (use of force, harassment, verbal threats) are generally seen as more serious than police practices, it is worth examining whether these complaints are internally or externally filed in addition to what post-investigation decisions follow. A cross-tabulation was conducted to explore who is filing what kind of complaints. This cross-tabulation revealed that among police practice complaints, 38.3% were filed by citizens while 61.7% were filed by police personnel. Further, among those complaints that were sustained, 6.1% were filed by citizens while 93.9% of sustained complaints were filed by police personnel. These results demonstrate the rarity at which serious complaints filed by citizens are sustained. However, when internal affairs does sustain a complaint, there are no meaningful differences in the discipline based on whether police personnel or citizens file the complaint. Taken together, the results of the preceding analysis suggest a process by which complaints are filed and subsequently investigated. First, citizens and police personnel decide to file a complaint with the police department. Of the filed complaints, internal affairs must investigate and decide on a disposition. After the disposition of

the investigation is decided, a disciplinary recommendation must be made. These results show the importance of studying complaints of police misconduct at the different stages of the investigation.



Table 10

*Logistic Regression Model Estimating Effects of Officer and Complaint Characteristics on the Discipline of the Investigation*

Variable	B	SE	p	Exp ( <i>B</i> )
<b>Police Characteristics</b>				
Sex	.100	.399	.803	1.105
Years of Experience	.004	.023	.861	1.004
Average Citations	.001	.002	.552	1.001
Average Arrests	-.002	.003	.576	.998
Number of Prior Complaints	.189	.137	.169	1.208
<b>Complaint Characteristics</b>				
Complainant Sex	-.066	.564	.907	.936
Length	.048	.013	.000***	1.049
Number of Investigations Per Year	-.027	.021	.189	.973
Number of Police Officers Involved	.385	.437	.379	1.469
Nature (Department Policy)	-.182	.585	.756	.834
Nature (Work Performance)	.198	.575	.731	1.218
Constant	-.888			
Model $\chi^2$		$\chi^2$ (8, 222) = 24.69, p = .010		
Hosmer and Lemeshow Test		$\chi^2$ (11, 222) = 4.84, p = .774		
Nagelkerke R <sup>2</sup> = .170				

\*\*\*p≤.001

## **CHAPTER 5. DISCUSSION**

The purpose of this study was to determine what variables influence the timeliness of investigations of police misconduct. In addition, it sought to investigate how the timeliness of misconduct allegations may influence the disposition and discipline among relevant police officer and complaint characteristics.

The quantitative analysis revealed several notable findings. Regarding the timeliness of the investigation, results show that allegations of police misconduct involving two or more officers increased the amount of time taken to investigate officer misconduct. Since more time would be needed to interview each additional officer involved in the interaction which led to the complaint, this result is consistent with expectations. From a procedural justice perspective, it should be encouraging from the complainant's perspective that this police department appears to be taking the extra time needed to gather evidence to make an educated decision regarding the disposition and discipline. The Justice Department's (1990) report on the New Orleans Police Department noted a failure by internal affairs investigators to search for witnesses of the interaction which led to the complaint in addition to failing to interview other highly relevant witnesses. Since procedural justice refers to the fairness of the processes through which the police make decisions and exercise authority, one could argue that objectivity is increased by taking the extra time to interview more officers involved (Sunshine & Tyler, 2003).

The analysis also revealed that less time is taken to investigate complaints involving work performance compared to departmental and police practice violations. These findings confirmed results from the one-way ANOVA which found a difference in length of the investigation based on the nature of the complaint. This result also makes intuitive sense, as it would be expected that complaints alleging use of force or verbal threats made by officers are

more serious in nature and would take longer to investigate. This result should also be promising from a procedural justice perspective. Complainants should have more confidence in the complaint process when internal affairs is taking more time to investigate allegations of police use of force compared to an officer skipping a work shift or security detail.

The results also revealed that more productive officers in terms of citations are less likely to have their complaints sustained. Previous research has established that more productive officers generate more complaints (Brandl et al., 2001; Hassell & Archbold, 2010; Lersch 2002). Therefore, it could be expected that those officers who have more frequent interactions with citizens will receive more complaints than those who have less interaction with the public. In addition, there may be more discretion being used by police officers who issue more citations as opposed to arresting subjects, which could result in an increase in complaints because of the perception that the officer is straying from policy (Smith & Damphousse, 1998). However, as internal affairs is investigating these allegations, it could be the case that the officers are determined to be acting in accordance with policy, ultimately lowering the likelihood that a complaint is sustained.

Alternatively, more productive officers in terms of writing citations could be viewed more positively by supervisors than officers who are not productive. Historically, the individual officer's productivity is key to the effectiveness of law enforcement. A more positive outlook toward productive officers may play a factor when determining whether a complaint should be sustained or not. From a complainant's perspective, this is not a reassuring result for a "procedurally just" accountability mechanism. If police officers who are exercising more discretion are also not being held accountable, citizens may have less confidence in the ability of the police to correct officer behavior.

Complainants who are female were less likely to have their complaints sustained. This result contrasts with the “chivalry hypothesis” which holds that females encountering the criminal justice system receive preferential treatment (Visher, 1983). Consistent with this idea, recent research suggests that misconduct cases involving a male complainant are less likely to result in a sustained finding (Headly et al., 2017). Research has also found that police often develop a “perceptual shorthand” that includes extralegal variables, or stereotypes about people in their decision-making (Holleran et al., 2010; Steffensmeier et al., 1998). This poses a question whether internal affairs in this department has developed stereotypical ideas about what constitutes real misconduct and which complainants are credible. This is a troubling result for the prospects of investigating officer misconduct in a fair manner. Any systematic bias the police hold against a specific group of people can be damaging to the way people view the police. Complainants who are female may be less likely to view the police as providing them services. Long-lasting effects could include females being less likely to file complaints in the future and rating the police less favorably than males, ultimately leading to a strained relationship.

It was found that interactions with more than one officer which resulted in a complaint were less likely to be sustained compared to interactions involving only one officer. This finding confirms past research which also found that a complaint is more likely to be sustained when only one officer is on scene at an incident resulting in a complaint (Hassell & Archbold, 2010). When internal affairs is determining whether the actions of an officer named in a complaint were lawful or proper, the addition of two or more officers is more likely to bolster the accused officers account. This would lower the likelihood that a resolution is found in a complainant’s favor. If this were the case, citizens without any extra non-police witnesses may feel at a

disadvantage when it comes to the internal affairs investigation. By not having anything or anyone to corroborate their side of the story, it may decrease the likelihood that an officer is held accountable for their misconduct. Conversely, interactions involving two or more officers may also provide extra accountability and lower the likelihood that officers will stray from standard operating procedure (Hassell & Archbold, 2010). If allegations of police misconduct are not justified, this is a positive finding considering procedural justice principles.

Complaints alleging violations of departmental policy and work practice issues were more likely to be sustained compared to police practice complaints. This could mean that serious allegations of use of force along with harassment and verbal threats are seen as lacking merit or this police department does not see them as serious. Previous studies have demonstrated that the likelihood of an allegation being sustained decreases as the seriousness of the charge against the officer increases (Box & Russel, 1975; Dugan & Breda, 1991). This finding holds negative consequences for procedural justice (Hassell & Archbold, 2010). A police-community relationship is based on the principle of legitimacy. When third-party decisions are fairly made, people are more willing to voluntarily accept them (Lind et al., 1993) Research also indicates that citizens have more favorable views of the police when treated in a procedurally just manner (Sunshine & Tyler, 2003; Tyler, 2001; Mastrofski, & Parks, 1999). When legitimacy is compromised by unfair treatment it is possible to have a negative effect in which people do not hold an obligation to obey the law. Confirming this idea, a study by Paternoster et al. (1997) revealed that procedural justice encourages long-term obedience to the law.

Most notably, this study found that longer investigations decreased the likelihood that a complaint would be sustained. This finding is important from a procedural justice perspective. Not only do longer investigations fail to hold the officer accountable for his or her actions, the

future effects of this are unknown. As more time elapses between the start and the end of an investigation, accused police officers could commit subsequent misconduct while they are being investigated. Additionally, when an officer's behavior is not corrected when warranted, it may increase the likelihood of future misconduct. Conversely, longer investigations may be more likely to stem from serious complaints that citizens report. The time taken to investigate misconduct could be a function of the evidence gathering surrounding the investigation, with the result more likely to favor the officer. Evidence that is being collected could be coming from fellow officer testimony or other sources not likely to corroborate the complainant. The complaint process is designed to hold officers accountable for their misconduct. If police agencies are taking a longer time in investigating misconduct, both the accused officer and complainant may become frustrated with the process. Further, longer investigations which are not holding officers accountable for their actions, may result in less confidence in the police for the citizen.

Lastly, regarding the discipline administered after a sustained allegation, longer investigations were more likely to yield serious discipline. This result is consistent with principles of procedural justice. A longer investigation that is sustained may be more serious in nature than shorter investigations. The fact that longer investigations are resulting in serious discipline means that this police department is taking sustained allegations of misconduct seriously and holding officers accountable.

### **Limitations**

Although this study has explored an uncharted area of misconduct investigations and found many notable statistical relationships, there are some limitations worth highlighting. First, using complaints of police misconduct as a data source has been criticized by some scholars. For

example, West (1988) labeled citizen complaints of misconduct as a “badly abused police-based statistic”(p.113). Other scholars have been more specific in their criticisms of complaints of police misconduct. Many scholars have taken issue with complaints as an indicator of police behavior due to issues of underreporting (Lersch, 2002; Lersch & Mieczkowski, 1996; Walker & Bumphus, 1992). Citizens may choose not to report misconduct for several reasons such as cynicism about the process, intimidation, or lack of information on how to file a complaint. Therefore, there may be a large amount of police misconduct may go undetected with complaints as the main data source. As a result, it could be argued that citizen allegations of misconduct may be an indicator of the confidence civilians have in the complaint process (Pate & Fridell, 1993; Walker, 1997). Other critics oppose the use of complaints as a measure of police misconduct due to over reporting (Adams, 1995). Findings from this study were gathered from one Midwestern agency. Because of this, findings may not be generalizable to diverse police agencies in diverse cities. Conducting a similar study in a community that is more diverse may provide different results and theoretical insights.

The majority of data used in this study also came from internal complaints filed by supervisors and police officers. As a result, this study did not control for whether the complaint was filed by a citizen or a police employee. There may be considerable variation in how complaints filed by a police supervisor are investigated opposed to complaints filed by citizen’s. As the limited analysis showed, among those complaints that were sustained, 6.1% were filed by citizens while 93.9% of sustained complaints were filed by police personnel. Because most of the complaints are internal, there may also be considerable variation among supervisors who decide to report officer misconduct versus those who do not.

This study was also limited in the police officer and citizen characteristics used in the analyses. For example, data on police officer education was not collected. Past research has demonstrated that a complaint is more likely to be sustained for less educated officers, or officers who had not earned four-year degrees (Manis, Archbold, & Hassell, 2008). In addition, citizen age and race was not collected. It is not known how the analysis would have been altered without these variables. Recent research also finds that African American complainants are more likely to receive a not sustained outcome (Headly et al., 2017). These limitations present valid concerns; however, complaints are one part to a larger system of holding police accountable for their actions (Walker & Archbold, 2014). While not perfect by itself, complaints are one data source scholars should continue to utilize.

### **Future Research**

In addition to addressing the limitations of this study, future research should continue to focus on the process of investigating complaints of police misconduct. Since the current study revealed that longer investigations are less likely to hold accused officers accountable, it is important to evaluate the future consequences of longer investigations. For example, do longer investigations increase the likelihood of future misconduct? Does police officer stress or job satisfaction change as investigations take longer? It is also worth investigating how thorough internal affairs is when investigating complaints of police misconduct. Although the time taken to complete investigations of police misconduct is a start to this endeavor, improved measures of thoroughness should be used. More specifically, does the investigation use any photographs or diagrams? Were all the witnesses interviewed? Were there any inconsistencies between the civilian witnesses and the police? How objective is the IA investigator when conducting the



investigation? These are worthwhile research questions that will open the “black-box” of investigating police misconduct.

Future research should also look at how complainants evaluate the complaint process. For example, what principles of a complaint process do citizens rate as more positive than others? Research also needs to look at the differences in timeliness across accountability mechanisms. More specifically, do complaint investigations conducted by internal affairs divisions take longer to conclude compared to a civilian review board? As it stands, there is little research which investigates these relationships from a procedural justice perspective.

### **Policy Implications**

Police accountability has developed markedly since the creation of the first American police departments. However, addressing police misconduct remains a real challenge for any police administrator. This study demonstrated that police and complaint characteristics have the potential to influence different stages of the complaint process. Further, some findings from this study are not consistent with principles of procedural justice and could have long lasting negative effects. Agency administrators and Internal Affairs Divisions should recognize the possible effects that these characteristics have and implement principles to safeguard the integrity of complaint investigations.

To ensure timely investigations of complaints of police misconduct, police departments should continue to implement formal timelines to investigate allegations of misconduct (Walker & Archbold, 2014). Some agencies have developed formal timelines for different stages of the process such as classifying/assigning complaints to an investigator, completing investigations of use of force complaints, and lastly completing investigations for all other complaints (Walker & Archbold, 2014). In addition to formal timelines, police departments should include standards

and principles into their investigation process to make it proceed efficiently and fairly. Some agencies have developed checklists to streamline the process and safeguard the integrity of complaint investigations. Checklists have been used in the medical field to decrease the amount of infections and deaths resulting from infections (Pronovost et al., 2006). When addressing police misconduct, checklists often outline the steps to take during a complaint investigation such as evidence collection procedures and interviews to conduct (Walker & Archbold, 2014). A policy and procedure manual that includes specific directives related to developing checklists and other standards of investigating complaints should be adopted by police agencies. The Year-End Report of the San Jose Independent Police Auditor (1995) found that the quality of internal investigation differed markedly among internal affairs staff. It is not known to what extent police internal affairs have developed comprehensive policies (Walker & Archbold, 2014).

The integrity of complaint processes can also be improved by the acceptance and prompt classification of complaints of police misconduct (Walker & Archbold, 2014). A recent investigation conducted by the U.S. Department of Justice found that the Office of Professional Accountability in the Seattle Police Department routinely disposed nearly two-thirds of citizens' complaints by sending them to precincts where the quality of investigations was low (United States Department of Justice, 2011). Further, police departments should locate and interview all witnesses, avoid conflicts of interests, prohibit hostile interviews, and probe interview inconsistencies (Walker & Archbold, 2014).

In addition to timelines and checklists, some agencies will audit or re-open investigations as a quality control strategy (Walker & Archbold, 2014). An auditing function allows an independent police monitor to continuously observe witness interviews, review tapes and case files, and request further investigations of complaints. For example, the Denver Office of the

Independent Monitor analyzed the Denver Police complaint process and in 2006 set the goal to increase the timeliness of handling internal affairs investigations, assignments, and the imposition of discipline (Rosenthal, 2006). With this goal in mind, the monitor recommended changes that improve the efficiency of investigating complaints. Soon after these changes, the Denver Police Department observed a decrease in the time taken to complete investigations of officer misconduct (Mitchell, 2010). One strength a police auditor has, as opposed to a blue-ribbon commission, is continuous access to departmental records. Not only can police auditors make specific recommendations to continuously improve the timeliness of handling complaints, they can disagree with disciplinary recommendations. For example, in 2011 the San Jose Independent Police Auditor disagreed with findings in 6 percent of the cases that it audited. Although this disagreement rate would be deemed low by critics, the continuous pressure police auditors place on internal affairs helps maintain the quality of investigations. Regarding discipline, police departments should implement disciplinary matrices to increase consistency and fairness in the complaint process (Shane, 2012).

Complaints of police misconduct are not a catch-all for problem officers. Complaints are just one part towards holding police officers accountable for their actions. For example, complaints of police misconduct can be a part of an Early Intervention System (EIS). An EIS is “best practice” as outlined Walker and Archbold (2014) to improve police accountability. The premise of an EIS is to identify officers who engage in misconduct and correct behavior through a specific intervention, such as re-training, counseling, or another option. An EIS seeks to address problem behaviors before more serious misconduct takes place. EISs are a computerized database of police officer performance indicators, including uses of force, citizen complaints, arrests, canine deployments, traffic stops, officer discipline records, use of sick leave, and

commendations/awards. Walker and associates (2001) found significant reductions in use of force and citizen complaints among officers identified by EISs in three agencies. One of the main problems previously mentioned is that departments only monitor an officer for a short time before the period resets and the officer is given a “clean slate” (Walker & Archbold, 2014; Davis et al., 2002). Police departments should consider lengthening the time limit that officers are monitored for to avoid this problem.

### **Concluding Remarks**

Procedural justice will remain relevant for the development of police accountability into the future. The policy implications mentioned are intended to eliminate negative actions of officers that could possibly affect perceptions of procedural justice. As described by Walker and Archbold (2014) and Skogan (2008), reforms to improve police accountability within police departments tend to fail due to resistance from mid-level and top managers and from front line supervisors. Unfortunately, these are the administrators who usually oversee and enforce mechanisms of police accountability. Without these official’s support, front-line officers behavior can remain unchecked and misconduct not addressed. Further, if complaint processes are not put under the same scrutiny as police officers, procedural justice is undermined further. Police departments should take it as a challenge to improve their accountability mechanisms, namely, complaints of police misconduct. In a time period where much of a police department’s success depends on the way the community views them, it should be of the utmost importance to address all shortcomings in police accountability.

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